

RECEIVED

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

MM Docket No. _____

PETITION FOR RULEMAKING

The need for relief is particularly acute in this case because the amount of copyright liability that WMBC-TV will incur if it asserts its mandatory signal carriage rights is so astronomical that it effectively prohibits the station from seeking must-carry status even though

749

it is otherwise a qualified local commercial television station entitled to carriage on cable systems serving communities within the New York ADI.¹ Because Newton, New Jersey, WMBC-TV's community of license, is not currently included as one of the designated communities in the New York, New York - Linden - Paterson - Newark, New Jersey market, WMBC-TV is deemed to be a "distant" or partially "distant" signal, the carriage of which causes increased copyright liability for cable systems located within the New York ADI but beyond the thirty-five-mile zone surrounding Newton. The requests for copyright indemnification that Mountain has received to date from such systems indicate that its copyright liability will be over \$9 million dollars per six-month period.² Due to WMBC-TV's limited financial resources, it cannot pay these extremely high copyright costs. As a result, WMBC-TV is effectively foreclosed from access to a substantial number of viewers who live within its local service area. As shown below, however, WMBC-TV is logically and actually an economic competitor within the New York, New York - Linden - Paterson - Newark, New Jersey market, and the requested relief would be entirely consistent with Commission precedent construing Section 76.51 and redesignating hyphenated markets.

For purposes of the Table of Major Television Markets, codified as Section 76.51 of the Commission's rules, a hyphenated market is one in which "more than one major population center support[s] all stations in the market but with competing stations licensed to different cities within the market areas."³ In adopting the Cable Television Consumer Protection and

¹ Section 76.55(c)(2) of the Commission's rules, 47 C.F.R. § 76.55(c)(2), provides that must-carry stations must indemnify cable operators for any increased copyright costs that may be incurred as a result of carriage of the must-carry station. See 47 C.F.R. § 76.56(a).

² See letters appended as Attachment A.

³ Cable Television Report and Order, 24 RR 2d 1501, 1541 (1972).

Competition Act of 1992 ("1992 Cable Act"), Congress specifically ordered the FCC to undertake a review of Section 76.51.⁴ As part of its rulemaking to implement the Act's mandatory signal carriage and retransmission consent provisions, the FCC addressed the Congressional directive concerning Section 76.51. The agency adopted a special expedited rulemaking procedure for consideration of requests to modify Section 76.51.⁵ Under this approach, the Commission authorized its staff, on delegated authority, to issue a notice of proposed rulemaking based on receipt of a rulemaking petition without first seeking comment on the petition itself. The Commission stated that, after reviewing the comments received in response to such a notice, it would add a new community to a market designation if the comments demonstrated "commonality between the proposed community to be added . . . and the market as a whole."⁶ In an action taken since releasing the Report and Order, the Commission has made clear that "commonality" is to be measured by reference to the same evidentiary standards applied in previous Commission precedents modifying Section 76.51.⁷

The Commission's market redesignation decisions issued prior to the Report and Order determined the commonality of the proposed community with the existing market through an evaluation of the following four factors:

- (1) the distance between the proposed community and the market-designated communities;

⁴ 47 U.S.C.A. § 534(f) (1993).

⁵ Report and Order (MM Dkt. Nos. 92-259 et al.), FCC 93-144, released March 29, 1993 ("Report and Order"), at paragraph 50.

⁶ Id.

⁷ Report and Order (MM Dkt. No. 92-306) (Clermont, Florida), DA 93-579, released May 19, 1993, at paragraph 3, citing Major Television Markets (Fresno-Visalia, California), 57 RR 2d 1122 (1985).

- (2) the extent that redesignation to include the proposed community would allow the station additional rights in areas beyond its Grade B contour;
- (3) the particularized need of the station; and
- (4) the resulting benefit to the public from redesignation.⁸

Application of these particular factors helps the Commission determine whether the station at issue both logically and actually competes with other stations in its hyphenated market and, as a result, whether market redesignation will "equalize competition" and correct competitive imbalances. In WMBC-TV's case, evaluation of these factors demonstrates that redesignation is not only compelled by market realities but desperately needed to correct market dysfunction.

First, Newton, New Jersey is less than 45 miles from all of the currently designated communities in the New York market.⁹ The Commission previously has redesignated market names to include communities separated by much greater distances.¹⁰ Moreover, although Newton, New Jersey is not immediately contiguous to the other designated communities, the

⁸ Major Television Markets (Fresno-Visalia, California), 57 RR 2d at 1124; Television Muscle Shoals, Inc., 48 RR 2d 1191, 1193-94 (1981).

⁹ Based on distance calculations between the communities, Newton is 44.73 miles from New York, New York; 38.86 miles from Linden, New Jersey; 32.14 miles from Paterson, New Jersey; and 37.30 miles from Newark, New Jersey. Derivation of these distances is explained in Attachment B.

¹⁰ For example, in Major Television Markets (Melbourne, Florida), 57 RR 2d 685 (1985), in which the Commission added Melbourne and Cocoa, Florida to the Orlando-Daytona Beach market designation, Melbourne, Florida was considered proximate to Orlando and Daytona Beach even though it is some 56 miles from Orlando and approximately 82 miles from Daytona Beach. Clearly, Newton is much more proximate to every currently designated community in the New York market than Melbourne was to the closest community in the Orlando - Daytona Beach, Florida market. In Report and Order (Clermont, Florida), DA 93-579, supra note 7, the Commission added Clermont to the market designation; Clermont is some 77 miles from Melbourne and 63 miles from Daytona Beach.

Commission has very recently articulated that communities need not be "directly adjacent" to be considered in the same hyphenated market.¹¹

The Grade B contour of WMBC-TV also demonstrates that the station competes with other stations in the New York market. As shown by the map appended as Attachment C, the Grade B contour of WMBC-TV reaches a substantial portion of all the currently designated communities in the New York market, and it significantly overlaps the Grade B contours of the commercial broadcasting stations licensed to these currently designated communities. Moreover, all but five of the twenty-two television stations in the large New York ADI cast a Grade B contour over Newton, New Jersey.¹² Consequently, WMBC-TV's requested change in Section 76.51 would not greatly extend its access to viewers beyond its own Grade B contour.¹³ The fact that WMBC-TV actually does and can logically be expected to rely on the New York market for viewership is further verified by the fact that WMBC-TV is included in the New York ADI as defined by Arbitron.

¹¹ Report and Order (Clermont, Florida), MM Docket 92-306 at paragraph 3 (released May 19, 1993).

¹² According to Broadcasting & Cable Market Place 1992 at E-66, twenty-two stations are included in the New York ADI. Based on the depiction of these stations' Grade B contours in the TV & Cable Factbook, vol. 61, Stations Vol., the Grade B contours of only WHAI(TV), Bridgeport, Connecticut; WTZA(TV), Kingsport, New York; WLIG(TV), Riverhead, New York; WHSI(TV), Smithtown, New York; and WTBV(TV), Poughkeepsie, New York fail to reach Newton. WTBV(TV)'s Grade B contour, in particular, just barely fails to cover Newton, falling within less than five miles of the town.

¹³ The Commission has recognized that some extension of rights into areas beyond a station's Grade B contour is permissible in a hyphenated market as long as the station "largely gain[s] such rights in a significant area within that contour." Major Television Markets (Melbourne, Florida), 57 RR 2d at 692. In that case, the Commission recognized that Melbourne was included in the Orlando-Daytona Beach market despite the fact that the Melbourne television station's Grade B contour did not extend to Daytona Beach. Cf. Television Muscle Shoals, Inc., 48 RR 2d 1191 (1980).

Most significantly, WMBC-TV has a particularized need for market redesignation. Without such change, it is unlikely that WMBC-TV will be carried on many of the cable systems in its ADI. Although WMBC-TV has mandatory signal carriage rights throughout the New York ADI, it can in no way afford to pay the over \$9 million in copyright liability that the letters in Attachment A demonstrate will be due on a semi-annual basis. The estimated copyright costs for cable carriage are so staggering that WMBC-TV is, in effect, prohibited from exercising its must-carry rights. Preservation of the status quo will mean that a significant portion of the viewers within WMBC-TV's service area will be denied access to its programming. The concomitant loss of advertising revenues caused by such artificial limitation of WMBC-TV's audience will definitely jeopardize the continued survival of the station.

On the other hand, it is beyond dispute that redesignation of the existing New York market will greatly benefit the viewers in the area and advance concerns that lie at the heart of the FCC's public interest mandate. First, following a full and lengthy comparative hearing involving numerous challengers, Mountain was found to be the superior applicant, comparatively best qualified to serve the public interest.¹⁴ Second, WMBC-TV would increase the diversity of programmers in the market because it is wholly-owned by minorities and is not affiliated with any of the major television networks. Significantly, all of the voting shareholders of the permittee work full time in management positions at the station.

¹⁴ Bogner Newton Corp., 2 FCC Rcd 4792 (1987). The FCC Review Board affirmed this decision in Newton Television Limited, 3 FCC Rcd 553 (1988), and the full Commission sanctioned this result. Newton Television Limited, 4 FCC Rcd 2561 (1989). On reconsideration, the Commission reaffirmed its prior decision. Newton Television Limited, 5 FCC Rcd 2755 (1990).

Mountain's qualifications remained untarnished throughout this intense administrative scrutiny. As a consequence of the extended period of review, WMBC-TV began broadcasting only a few months ago. See FCC File No. BLCT-930505KE.

The public would also be served by Commission action facilitating carriage of WMBC-TV on the cable systems throughout the ADI because of the unique programming that the station offers. As an independent station, WMBC-TV offers a wealth of non-violent family oriented programming such as, "Family Net Drama," "Family Net Music," and "Lifestyle Magazine." For children, WMBC-TV provides a wide variety of responsible programming such as "Davey & Goliath," "Act It Out," and "Just Kids". The station also offers programming focusing on outdoor activities, self-help, financial guidance, and religion in order to reach a wide, diverse audience. On a daily basis, WMBC-TV also broadcasts one hour of local news and one hour of community-oriented non-entertainment programming, further demonstrating its commitment to the area.¹⁵

Facilitating WMBC-TV's ability to compete will also advance the well-documented concerns of the Commission and Congress in assuring provision of adequate television service to residents of the state of New Jersey. For many years, there was not a single commercial VHF station licensed to New Jersey and serving the viewing needs of its residents.¹⁶ In the mid-1970's, the FCC spent several years studying television service in New Jersey. Although it rejected requests for amendments to the Table of Allotments, the Commission did find a need for augmenting locally-oriented broadcasting service for New Jersey.¹⁷

¹⁵ A Sample Programming Guide is attached hereto as Attachment D.

¹⁶ Channel 13 was then and continues to be listed in the Table of Allotments as a Newark, New Jersey commercial VHF assignment, but in 1961 the FCC approved the assignment of the channel's license from a commercial operator to a noncommercial operator in New York. See NTA Television Broadcasting Corp., 44 FCC 2563 (1961).

¹⁷ First Report and Order and Further Notice of Proposed Rulemaking (Docket No. 20350), 58 FCC 2d 790; Second Report and Order (Docket No. 20350), 59 FCC 2d 1386; Third Report and Order (Docket No. 20350), 62 FCC 2d 604 (1986).

Similarly, ensuring viewer access to WMBC-TV will further the Commission's interest in assuring the competitive equality of UHF broadcasters. For over three decades, the FCC and Congress have been concerned with fostering not only the growth of UHF stations such as WMBC-TV but their comparability vis-a-vis VHF broadcast facilities. The All-Channel Receiver Act of 1962 gave the Commission the authority to require that television receivers be capable of receiving UHF as well as VHF channels.¹⁸ Since its passage, the FCC's concern over UHF has been reflected in adoption of numerous technical regulations implementing the Act as well as regulations favoring UHF stations in other substantive areas such as station ownership. For example, between 1970 and 1973, the Commission exceeded the basic requirements of the 1962 legislation by requiring TV receivers to have comparable tuning for UHF and VHF television channels.¹⁹ In 1976, the agency mandated that television receivers include a new UHF receiving antenna if they were supplied with a VHF receiving antenna.²⁰ In 1978, the FCC established the UHF Comparability Task Force, which worked over the next

¹⁷(...continued)

Not until Congress amended the Communications Act to include Section 331 and the FCC allowed RKO's WOR-TV to move from New York City to Secaucus, New Jersey did the state obtain a commercial VHF station licensed to a community within its borders. 47 U.S.C.A. § 331. In *Multi-State Communications, Inc. v. FCC*, 728 F. 2d 1519 (D.C. Cir. 1984), the Commission's order reallocating WOR-TV's Channel 9 to Secaucus and renewing its license was affirmed.

¹⁸ The Act's provisions are codified as Section 303(s) of the Communications Act, 47 U.S.C. § 303(s).

¹⁹ *E.g.*, Report and Order (Docket No. 18433), 21 FCC 2d 245 (1970); Memorandum Opinion and Order (Docket No. 19722), 43 FCC 2d 395 (1973).

²⁰ Report and Order (Docket No. 20839), 62 FCC 2d 164 (1976).

four years to address specific improvements needed to ensure the comparability of UHF reception.²¹

In the multiple ownership area, the FCC has given UHF stations special consideration in the application and enforcement of its rules. For instance, for many years the FCC's multiple ownership rules excepted UHF licensees from certain requirements and provided that waiver requests involving UHF cross-ownership issues were to be evaluated on a case-by-case basis.²² When the FCC adopted its current national multiple ownership rules, it provided a special "discount" for UHF stations in calculating the national audience reach of television stations licensed to a single group owner.²³

Other than WWOR-TV, WMBC-TV today is the only English-language commercial television station licensed to northern New Jersey which does not employ a home shopping format. It is the only such UHF station licensed to northern New Jersey.²⁴ As shown by the program schedule appended as Attachment D, WMBC-TV provides locally-originated news and community programs designed to meet the needs of New Jersey residents as well as others in its viewing area. Thus, facilitating WMBC(TV)'s ability to compete will meet not only the

²¹ Report and Order (Gen. Dkt. No. 78-391), 90 FCC 2d 1121 (1982).

²² Note 4, 47 C.F.R. § 73.636 (1988). This provision was deleted upon the FCC's overall liberalization of its radio-television cross-ownership rules. Report and Order (MM Dkt No. 87-7), 65 RR 2d, 589; Memorandum Opinion and Order (MM Dkt. No. 87-7), 66 RR 2d 1115 (1989).

²³ Memorandum Opinion and Order (Gen. Dkt. No. 83-1009), 100 FCC 2d 74 (1985).

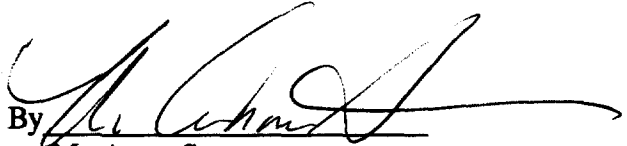
²⁴ WXTV(TV), which broadcasts on Channel 41 in Paterson, New Jersey, and WNJU(TV), which operates on Channel 47 in Linden, New Jersey, are both Spanish-language stations. TV & Cable Factbook, vol. 61, Stations vol. at A-799 & A-797. WHSE(TV), which broadcasts on Channel 68 in Newark, New Jersey, employs a home shopping format. *Id.* at A-796. WNJM(TV), which operates on Channel 50 in Montclair, New Jersey, and WFME-TV, which operates on Channel 66 in West Milford, New Jersey, are noncommercial educational stations as is WNET(TV) discussed above at note 16.

Commission's long established concern with the provision of adequate television service to New Jersey but also its equally well-established interest in ensuring a fair competitive arena for UHF television.

WHEREFORE, for the foregoing reasons, WMBC-TV respectfully requests that the Commission commence a rulemaking proceeding to amend Section 76.51 of its rules, 47 C.F.R. § 76.51, to redesignate the "New York, New York-Linden-Paterson-Newark, New Jersey" market as the "New York, New York-Linden-Paterson-Newark-Newton, New Jersey" market.

Respectfully submitted,

MOUNTAIN BROADCASTING
CORPORATION

By 
M. Anne Swanson

of

Koteen & Naftalin
Suite 1000
1150 Connecticut Avenue, N.W.
Washington, D.C. 20036

Its Attorneys

June 14, 1993

DECLARATION

I, Sun Young Joo, do hereby declare and state under penalty of perjury that the following is true and correct:

1. I am the President, Treasurer and a Director of Mountain Broadcasting Corporation, Permittee of television station WMBC-TV in Newton, New Jersey. I also serve as General Manager of the station.
2. I have read the foregoing Petition for Rulemaking of Mountain Broadcasting Corporation. The facts included in the Petition are true and correct to the best of my personal knowledge, information, and belief.

By: 

Sun Young Joo

Date: June 10, 1993

Attachment A

Robert S. Jacobs
Vice President & General Counsel
Time Warner New York City Cable Group



TIME WARNER

Via Federal Express and Telecopier

May 20, 1993

Mr. Sun Young Joo
General Manager
Mountain Broadcasting Corporation
Box 156
500 Weldon Road
Lake Hopatcong, New Jersey 07849-0156

RE: Carriage of Television Broadcast Station WMBC-TV
(Channel 63), Newton, New Jersey

Dear Mr. Joo:

Thank you for your letters of May 6, 1993, regarding the quality of your station's signal at the principal headends of the cable systems which comprise the Time Warner Cable New York City Group (the "Systems") and possible indemnification of the Systems for carriage of the station's signal.

With regard to copyright fees, WMBC-TV is one of several independent stations in the New York ADI not currently carried by the Systems that are now potentially "must-carry" stations under the new FCC rules but are considered "distant" signals for copyright purposes. The Systems currently carry one distant independent broadcast station, WTBS. If WMBC-TV were to be the second "distant" (for copyright purposes) independent station added to the Systems' lineup, the copyright fee for carriage of WMBC-TV would be calculated at the rate of .00563 multiplied by the Systems' revenues from secondary transmission service for the relevant accounting period.

The Systems are projected to earn revenues from secondary transmission service during the first accounting period of 1993 (from January 1 to July 31) of \$143,079,000. If the Systems were to begin carriage of Station WMBC-TV on or about June 2, 1993, they would be required to pay copyright

C:MSTCARRY.LTR-46

- 2 -

royalty fees for carriage of the station as if it were carried for the entire accounting period. Therefore, the amount for which WMBC-TV must indemnify the Systems for the first half of 1993 is projected to be \$805,535 (.00563 X \$143,079,000) if WMBC-TV is the second independent added. The Systems would expect the station to provide them with a letter of credit or other similar adequate assurance that the actual copyright fee will be paid when due. As you have requested, I am enclosing copies of the Systems' Statements of Account for the second accounting period of 1992.

If WMBC-TV is prepared to make the above-described commitment, please contact me. We can then schedule a meeting of our technical people to address the issue of signal quality. I look forward to hearing from you.

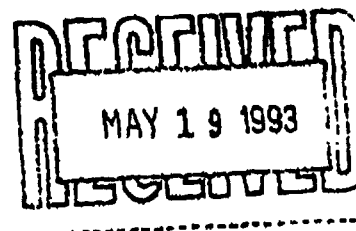
Sincerely,



Robert S. Jacobs
Vice President and General Counsel

Enclosures

Comcast Cablevision, Inc.
5 Shelter Rock Road
Danbury, CT 06810
(203) 792-0900



May 14, 1993

Sun Young Joo, General Manager
WMBC-TV
Box 156
Lake Hopatcong, NJ 07849-0156

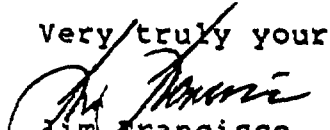
Dear Mr. Joo:

This is in response to your letter of May 6, 1993 requesting an estimate of the semi-annual copyright liability which Comcast Cablevision of Danbury, Inc. would incur as a result of carriage of WMBC-TV.

Comcast Cablevision of Danbury, Inc. reports on Form 3 as a long form system and reported revenues of \$3,310,069 for the second half of 1992. A copy of our 1992/2 Statement of Account is enclosed for your information. WMBC is licensed in Newton, New Jersey which is more than 35 miles from our system. It is also my understanding that WMBC does not place a Grade-B over our system. Therefore, the station would be non-permitted distant independent signal to our system for which we would have to pay an incremental 3.75% of gross revenues in royalties. Based on our 1992/2 revenues, this would amount to approximately \$124,000 per accounting period. This charge would apply in any accounting period during which WMBC was carried by the system, even if it were for less than the entire accounting period. If you remain interested in carriage, I will send you an indemnification agreement in which WMBC agrees to reimburse Comcast for the actual amount of any additional copyright charges incurred due to the carriage of WMBC and, given the large sum involved, payment of the charges in advance.

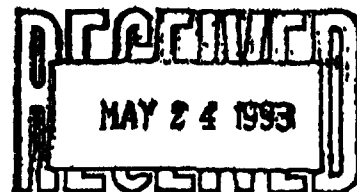
Finally, you should note that the above estimate of copyright liability is based on system revenue as of the end of 1992. The actual copyright liability we would incur would fluctuate as system revenues fluctuate, either up or down.

Very truly yours,


Jim Francisco
General Manager

**UNITED VIDEO
CABLEVISION, INC.****CERTIFIED MAIL**

May 21, 1993



Mr. Sun Young Joo
General Manager
Mountain Broadcasting Corporation
Box 156
500 Weldon Road
Lake Hopatcong, NJ 07849-0156

RE: Your Letter of May 6, 1993

Dear Mr. Joo:

The estimated additional copyright assessment for carriage of WMBC on the North Salem, New York system would be approximately \$13,269.00 semi-annually. This is our best estimate based on previous filings. As the copyright liability will fluctuate, should you elect mandatory carriage, we will need a written indemnification commitment before carriage commences. Enclosed please find our most recent Copyright Statement of Account.

The North Salem system has 4,673 subscribers.

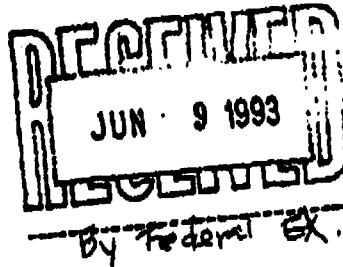
The technical sheets used to determine signal quality are attached. Please contact our Director of Engineering at the address below if you have any questions.

Very truly yours,

Joann F. Mirone
Director of Administration

JFM:jm

Enclosure

**CABLEVISION**

June 7, 1993

Mr. Sun Y. Joo
General Manager
WMBC
500 Weldon Road
Lake Hopatcong, NJ 07849

Re: Copyright Indemnification

Dear Mr. Joo:

By letters dated on or about April 30, 1993, cable television systems owned by Cablevision Systems Corporation and its affiliates and subsidiaries ("Cablevision") in the New York Area of Dominant Influence (the "New York ADI") advised you that although your station qualifies as a "local" signal on the systems, there may be a cost to Cablevision due to the fact that for many of the systems, your station is "distant" under Federal Copyright legislation.

By letters received by our systems on or about May 6, 1993, you agreed to pay any such increase. On or about May 28, 1993, the systems forwarded to you letters explaining our respective responsibilities in connection with the copyright provisions of the 1992 Cable Act, including estimates of potential copyright liability and a request that you obtain a letter of credit in that amount in our favor.

We estimate that carrying your station on all of our systems across the New York ADI would result in an aggregate semi-annual copyright liability of \$3,988,000, as more particularly set forth on Exhibit A attached hereto and incorporated herein (the "Estimate").

Since WMBC is a new station without an established financial history and the potential liability is so substantial, and since the resulting liability to Cablevision in the event of your default would likewise be substantial, Cablevision requests that you either provide a demonstration of your station's ability to incur such a sizeable obligation, or that you post a bond or letter of credit.

Mr. Sun Y. Joo
Page 2
June 7, 1993

Because we incur the liability on the first day of each accounting period even though we do not calculate and pay the exact amount until several months thereafter, and because the FCC has held that cable operators are entitled to receive a "written commitment from a broadcaster that ensures that the payments will be made once the actual amount of copyright liability is determined" (Report and Order, FCC 930144, released March 29, 1993, at 68), we ask that you agree to the following:

1. Once your signal meets FCC requirements and you agree to make the required copyright payments, we will carry your station's signal during the copyright accounting period commencing on July 1, 1993, and ending on December 31, 1993, (the "First Accounting Period") and for subsequent accounting periods unless you notify us no later than ninety (90) days prior to the end of any accounting period that you do not wish for this arrangement to continue.
2. Within thirty (30) days of our notice to you, you shall reimburse Cablevision for any copyright liability that we incur as a result of carrying your station's signal during the prior accounting period.
3. In light of the size of the Estimate, we believe it is reasonable to request that you post a bond or letter of credit, or provide Cablevision with some other evidence of your station's ability to meet this obligation. Our carriage obligation hereunder will not commence until we receive a copy of the bond or letter of credit.

In the event you demand that we commence carriage of your station's signal prior to July 1, 1993, you will be responsible for reimbursing Cablevision for its copyright liability for the entire copyright accounting period commencing January 1, 1993, and ending on June 30, 1993. You will be required to remit to Cablevision, on or before August 1, 1993, an amount equal to the Estimate. Once the actual copyright liability has been determined, Cablevision will either refund any overpayment or request that you remit any difference between the Estimate and the actual copyright liability.

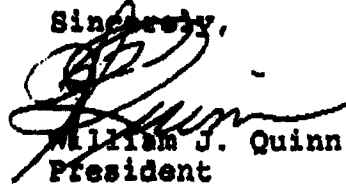
If, however, you postpone initial carriage until July 1, 1993, your initial copyright liability will be for the second half of 1993. You will be required to remit to Cablevision, on or before February 1, 1994, an amount equal to the Estimate, subject to the adjustment as set forth above.

Cablevision reserves all rights it may have with respect to its obligation to continue to carry your station in the future pursuant to the Communications Act of 1934, as amended and the rules and regulations of the FCC promulgated thereunder.

Mr. Sun Y. Joo
Page 3
June 7, 1993

Kindly acknowledge your agreement to the foregoing by signing below and returning same to the undersigned. We look forward to working with you.

Sincerely,



William J. Quinn
President
Cable-Operations

Agreed:

JDH31/p.4-6/6-93

EXHIBIT A

CABLEVISION SYSTEMS CORPORATION
CORPORATE SURVEY OF ESTIMATED COPYRIGHT LIABILITY

WMBC

July 1, 1993 - December 31, 1993

<u>SYSTEM</u>	<u>SEMI-ANNUAL COPYRIGHT LIABILITY (ESTIMATED)</u>
Western Long Island (Woodbury)	\$2,050,000
Hauppauge	725,000
Riverhead	231,000
East Hampton	66,000
Bridgeport	424,000
Norwalk	79,000
Bayonne	10,000
Bergen	30,000
Newark	21,000
Dutchess	37,000
Port Chester	58,000
Yonkers	31,000
Yorktown	126,000
*Bronx	51,000
*Brooklyn	<u>49,000</u>
Total	\$3,988,000

- * Since the New York City Systems are still under construction and are expanding both their revenues and their subscriber bases, estimating future copyright liability based upon historical data is at best imprecise. At this time, we are estimating that the copyright liability for our New York City Systems for the period commencing January 1, 1994, and ending June 30, 1994, will be as follows: (i) Bronx - \$62,000; (ii) Brooklyn - \$61,000.

JDH31/p7

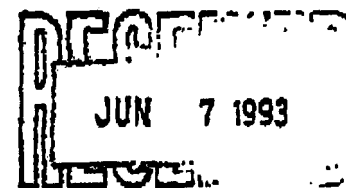
We're taking television
into tomorrow.



TCI of New York, Inc.

June 2, 1993

Mr. Sun Young Joo
WMBC-TV 63 Mountain Broadcasting Corporation
Box 156 500 Weldon Road
Lake Hopatcong, NJ 07849-0156



6710-2

Dear Mr. Joo:

We notified you earlier that increased Copyright liability may impact the must carry rights of WMBC-TV 63 on our systems with principal head ends located in Brookhaven, Mamaroneck, Poughkeepsie, Kingston, Rhinebeck, and Woodstock, NY. In response to your requests, we estimate that the increase will be approximately \$2,748,567, \$0.00, \$612,960, \$572,802, \$139,279, and \$110,962, respectively, for the current must carry election period (1993 - 1996).

Please keep in mind that our business is not static and many factors affect the Copyright fees we pay such as headend consolidations, acquisitions and, of course, internal growth. Therefore, Copyright costs may increase over time for a variety of reasons, including changes to our service offerings and/or prices. If you agree to indemnify *Brookhaven Cable TV, Inc., d/b/a TCI Cable of Brookhaven, UA-Columbia Cablevision of Westchester, Inc., d/b/a TCI Cable of Westchester, and TCI of New York, Inc. (head ends located in Poughkeepsie, Kingston, Rhinebeck, and Woodstock, NY only)*, respectively, for any Copyright increase associated with carriage of your signal, sign an indemnification agreement (sample attached), and provide a performance bond, letter of credit, or other financial instrument, WMBC-TV 63 could then be added to the aforementioned cable system head ends, provided there are no signal quality issues.

You will also find attached, our latest copyright Statement of Account for each head end in question, as you requested.

I'm available to discuss the particulars of this with you at your convenience.

Very truly yours,

Lloyd S. Riddle
State Manager

Attachment

State Office
100 Bigelow Avenue
Schenectady, NY 12304
(518) 379-4287

Attachment B

DISTANCE CALCULATIONS

The distances between Newton, New Jersey and the other communities listed in the New York market designation were calculated using the method set forth in Section 73.208(c) of the Commission's rules and were based on use of the following coordinates:

Newton, New Jersey

41-03-06
74-45-05

New York, New York

40-45-06
73-59-39

Newark, New Jersey

40-44-14
74-10-19

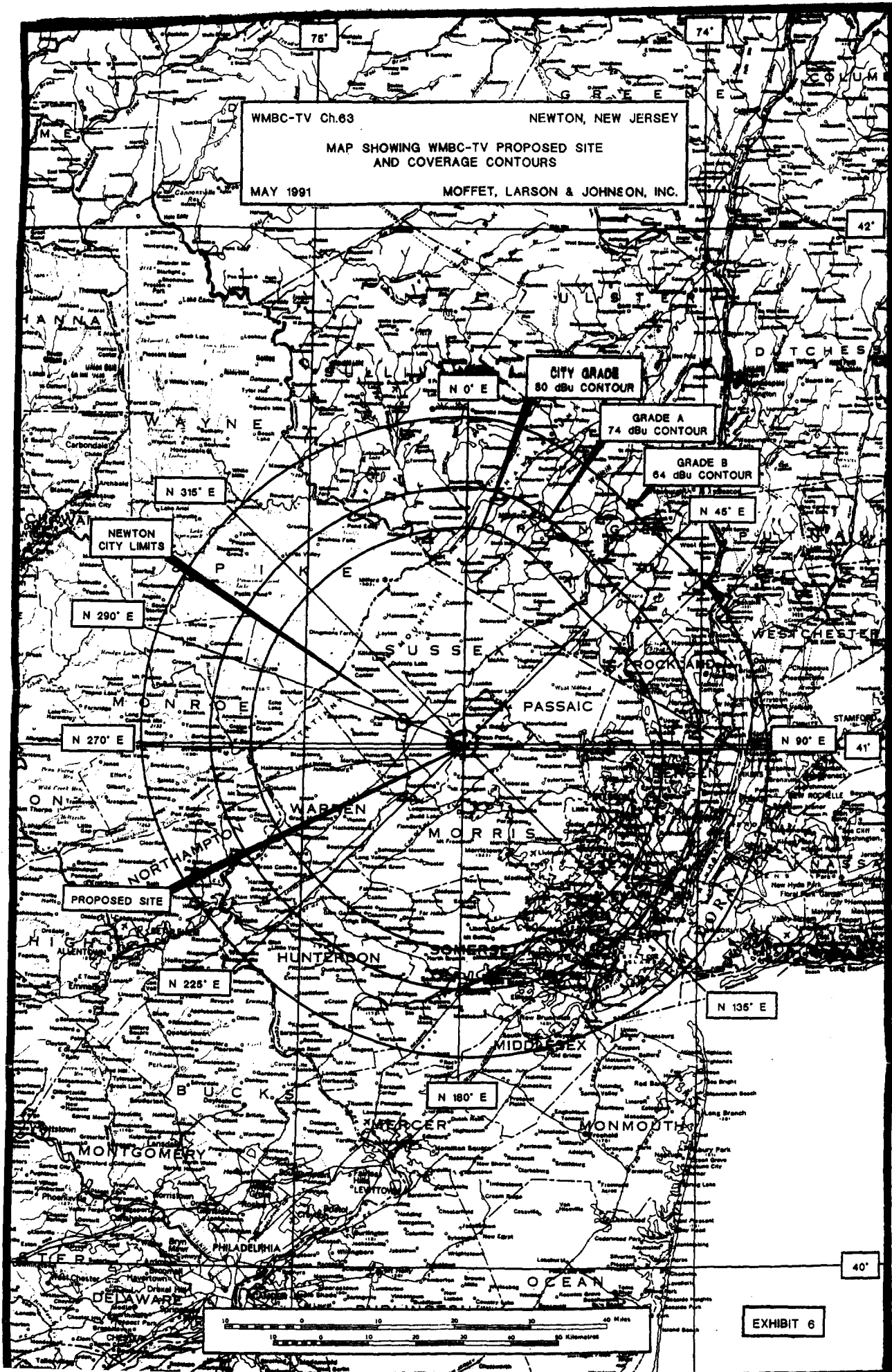
Paterson, New Jersey

40-54-51
74-09-51

Linden, New Jersey

40-37-57
74-15-22

Attachment C



WMBC-TV Ch.63

NEWTON, NEW JERSEY

MAP SHOWING WMBC-TV PROPOSED SITE
AND COVERAGE CONTOURS

MAY 1991

MOFFET, LARSON & JOHNEON, INC.

CITY GRADE
80 dBu CONTOUR

GRADE A
74 dBu CONTOUR

GRADE B
64 dBu CONTOUR

NEWTON
CITY LIMITS

N 290° E

N 270° E

PROPOSED SITE

N 225° E

N 0° E

N 45° E

N 90° E

N 135° E

N 180° E

40°

EXHIBIT 6